

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

CHARLES H. GAINES,

Plaintiff,

v.

VALVOLINE LLC et al.,

Defendant.

CASE NO. 3:25-cv-05599-DGE

ORDER TO SHOW CAUSE AND
ORDER DENYING
DEFENDANT'S MOTION TO
DISMISS (DKT. NO. 8.)

This matter comes before the Court on its own review of the record and Defendant Valvoline LLC's motion to dismiss. (Dkt. No. 8.)

A. Order to Show Cause

On July 9, 2025, Defendant removed this case from the Superior Court of the State of Washington for Pierce County. (Dkt. No. 1.) Defendant removed this action pursuant to 28 U.S.C. § 1441(a) alleging the Court has original jurisdiction under 28 U.S.C. § 1332. (*Id.* at 2.) Plaintiff's initial complaint (Dkt. No. 1-1) does not quantify damages, nonetheless Defendant argues the amount in controversy is satisfied because Plaintiff served Defendant a demand letter

1 for \$131,298.53. (*Id.* at 5-6.) According to Defendant, the demand letter seeks actual damages,
2 treble damages, and attorney fees. (*Id.* at 6.) On July 21, 2025, Plaintiff filed an amended
3 complaint which also does not quantify damages. (Dkt. No. 9.) Plaintiff’s amended complaint
4 alleges the cost to replace the transmission was approximately \$11,500 (this includes repair
5 estimate and inspection cost). (*Id.* at 4–5.) Plaintiff also alleges treble damages up to \$25,000.
6 (*Id.* at 9.) Plaintiff’s amended complaint does not otherwise quantify damages. (*See id.*)

7 Federal district courts have original jurisdiction over civil actions where the matter in
8 controversy exceeds \$75,000 and there is complete diversity between citizens of different states.
9 28 U.S.C. § 1332(a)(1). A defendant may remove any civil action brought in state court where
10 the federal court has original jurisdiction. 28 U.S.C. § 1441(a). In determining whether removal
11 is proper under 28 U.S.C. § 1332(a), the citizenship of defendants under fictitious names is
12 disregarded. 28 U.S.C. § 1441(b).

13 “When a defendant seeks to remove an action to federal court, ‘the defendant bears the
14 burden of actually proving the facts to support jurisdiction, including the jurisdictional amount.’”
15 *Keodalah v. Allstate Ins. Co.*, No. C15-01412 RAJ, 2016 WL 4543200, at *2 (W.D. Wash. Mar.
16 25, 2016) (quoting *Gaus v. Miles, Inc.*, 980 F.2d 564, 566-67 (9th Cir. 1992)). Where a
17 plaintiff’s complaint does not quantify damages, the defendants must prove, by a preponderance
18 of the evidence, that the amount in controversy exceeds \$75,000. *Id.* (citing *Matheson v.*
19 *Progressive Specialty Ins. Co.*, 319 F.3d 1089, 1090 (9th Cir. 2003)). To overcome the
20 presumption, defendants may present “summary-judgement type” evidence. *Id.* (citing *Kroske v.*
21 *U.S. Bank Corp.*, 432 F.3d 976, 980 (9th Cir. 2005); *Valdez v. Allstate Ins. Co.*, 372 F.3d 1115,
22 1117 (9th Cir. 2004)). Conclusory allegations are insufficient. *Id.* (citing *Singer v. State Farm*
23 *Mut. Auto. Ins. Co.*, 116 F.3d 373, 377 (9th Cir. 1997)). “The amount in controversy is
24

1 established at the time of removal, and includes actual damages, punitive damages, and attorney
2 fees authorized by contract or statute.” *Id.*

3 Defendant’s mere allegation that Plaintiff served a demand letter including actual
4 damages, treble damages, and attorney fees to the amount of \$131, 298.53 is insufficient to
5 establish the amount in controversy exceeds \$75,000. Currently, the only quantified damage
6 before the Court is approximately \$36,500, representing the cost of repairing Plaintiff’s car and
7 treble damages. It is therefore unclear why \$131, 298.53 is a reasonable account of Plaintiff’s
8 damages.

9 Accordingly, no later than **August 8, 2025**, the Parties shall confirm the amount in
10 controversy is over \$75,000 by identifying Plaintiff’s calculation of damages.¹

11 **B. Defendant’s Motion to Dismiss (Dkt. No. 8) is Denied as Moot**

12 On July 16, 2025, Defendant filed a motion to dismiss. (Dkt. No. 8.) Then, on July 21,
13 2025, Plaintiff filed an amended complaint. (Dkt. No. 9.)

14 Defendant’s motion to dismiss is moot. Although possibly not materially different, the
15 operative complaint is no longer the same. Considering the present motion to dismiss when there
16 is a new operative complaint can create confusion. More importantly, however, there is a
17 question as to whether this Court has jurisdiction which must be resolved prior to addressing any
18 motion to dismiss.

19 Accordingly, Defendant’s pending motion to dismiss (Dkt. No. 8) is DENIED as MOOT,
20 but may be refiled, if necessary, after the jurisdictional issue is resolved. Similarly, the motion to
21 continue (Dkt. No. 13) the motion to dismiss is DENIED as MOOT as well.

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23 ¹ The Court is aware of Plaintiff’s pending Motion to Remand (Dkt. No. 11) challenging the
24 diversity of parties. However, it is necessary to determine the amount in controversy in the event
Defendant successfully opposes Plaintiff’s motion to remand.

1 Dated this 25th day of July, 2025.

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5 David G. Estudillo
6 United States District Judge
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